

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RENE ORTIZ,

Plaintiff,

v.

MARY MARKEY, et al.,

Defendants.

No. 2:21-cv-1221-KJM-CKD PS

ORDER

(ECF No. 18)

Plaintiff Rene Ortiz proceeds pro se in this action against defendants Mary Markey, Wendy Torres and the United States Department of Veterans Affairs. This matter was referred to the undersigned pursuant to Local Rule 302(c)(3). See 28 U.S.C. § 636(b).

On September 16, 2021, the undersigned recommended the court grant the defendants' motion to dismiss and dismiss plaintiff's complaint without leave to amend. Plaintiff filed objections to the findings and recommendations. The motion to dismiss is currently before the district judge assigned to this case for resolution. In the meantime, on February 25, 2022, plaintiff filed an ex parte motion for leave to amend, points and authorities in support thereof, and a proposed first amended complaint. (ECF Nos. 18-21.) Defendants filed an opposition to the ex parte motion to amend. (ECF No. 22.)

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1 Plaintiff's ex parte motion for leave to amend is not properly served or noticed in
2 accordance with Local Rule 230. The motion for leave to amend, as filed, is deficient in that it
3 fails to set a time and date for hearing on the court's calendar. Accordingly, the undersigned will
4 deny the ex parte motion for leave to amend, without prejudice, for improper notice. Plaintiff is
5 informed that the district judge assigned to this case, when ruling on defendants' motion to
6 dismiss, will ultimately determine whether or not to adopt the undersigned's September 16, 2021
7 recommendation to dismiss plaintiff's complaint without leave to amend.

8 In accordance with the above, IT IS ORDERED that plaintiff's ex parte motion for leave
9 to file an amended complaint (ECF No. 18) is denied at this time, without prejudice, for improper
10 notice.

11 Dated: April 5, 2022

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13 CAROLYN K. DELANEY
14 UNITED STATES MAGISTRATE JUDGE

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